IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.5520 OF 2001

M/s.Dynamatic Forgings Pvt.Ltd.
and Ors. .. Petitioners

Versus

Presiding Officer, Debt
Recovery Officer & Ors. .. Respondents

Mr.Anil Jaryaz with Sangram Suryavanshi i/b. Mulla and Mulla C.B.C. for respondent No.3.

CORAM : S.C.DHARMADHIKARI, J.

DATE : DECEMBER 16, 2004.

P.C.

. Petitioner is aggrieved and dissatisfied with the order dated 29th May 2001 (Exh.B)

granting recovery certificate in favour of respondent No.3. Petitioner is also aggrieved by the demand notice dated 6th July 2001, attachment warrant dated 13th Auust 2001 and proclaimation dated 3rd October 2001 and Injunction Notice dated 24th October 2001.

2. It is not in dispute that respondent No.3 filed initially a suit in this court on the original side which came to be transferred upon esablishment of D.R.T. at Mumbai and the same was registered as O.A. 2450 of 1999. The O.A. came to be allowed on 29th May 2001 and the Presiding Officer has issued a recovery certificate in favour of respondent No.3 against all defendants. The amount under the Recovery Certificate is Rs.30,62,14,128/- with interest as on 29th May 2001.

3. Under the scheme of Recovery of Debt Due to Banks and Financial Institution Act, 1993 (RDB

Act), the Recovery certificate is capable of being executed in accordance with the provisions contained in section 25 onwards of this Act. Accordingly the Recovery certificate was executed through the Recovery Officer DRT Mumbai. He issued demand notices and attachment warrant as well as show cause notice in question. This Court had while issuing notice, protected the petitioner from arrest in execution proceedings.

4. This order was passed on 27th February 2004. On that date this Court did not have the advantage of presence of respondent No.3. Now, the learned Counsel appearing for respondent No.3 makes a statement that recovery/ execution proceedings have been transferred to D.R.T. Ahmedabad and D.R.T. Ahmedabad will proceed with the matter in accordance with law. Since, the proceedings stand transferred the demand notices and the arrest warrants do not survive. If this demand notice and arrest warrant do not survive

consequent upon transfer then there is no question of entertaining this petition.

5. In the light of the development noted above, this writ petition stands disposed of. However, it is clarified that it will be open for respondent No.3 to take such steps as are permissible in law, consequent upon transfer of the proceedings to Ahmedabad and neiher the present writ petition nor the order passed on the same would be an impediment in the proceedings being initiated and prosecuted by respondent No.3. All contentions of both sides in such proceedings are expressly kept open. With these directions the petition is disposed of with no order as to cost.

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